

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation )  
Against: )  
)  
)

**BRENDAN ROBERT MULL, M.D.** )

Case No. 04-2007-188190

Physician's and Surgeon's )  
Certificate No. A-74733 )  
)  
)

Respondent )  
\_\_\_\_\_ )

**DECISION**

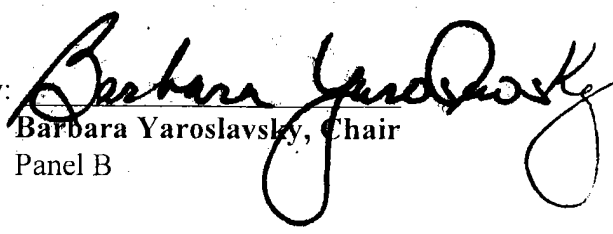
The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 8, 2008.

IT IS SO ORDERED September 8, 2008.

MEDICAL BOARD OF CALIFORNIA

By:

  
Barbara Yaroslavsky, Chair  
Panel B

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 STEVEN V. ADLER  
Supervising Deputy Attorney General  
3 SUSAN FITZGERALD, State Bar No. 112278  
Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101

5 P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2066  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**  
10 **MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 04-2007-188190

13 BRENDAN ROBERT MULL, M.D.  
14 P.O. Box 17037  
Anaheim Hills, CA 92817-7037

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Physician's and Surgeon's Certificate  
16 No. A 74733

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Barbara Johnston (Complainant) is the Executive Director of the Medical Board  
22 of California. She is represented in this matter by Edmund G. Brown Jr., Attorney General of the  
23 State of California, by Susan Fitzgerald, Deputy Attorney General.

24 2. Respondent Brendan Robert Mull, M.D. is represented in this proceeding by  
25 attorney Laura Stephan, Esq., whose address is Beam, Brobeck, West, Borges & Rosa, LLP, 600  
26 West Santa Ana Blvd., 10<sup>th</sup> Floor, Santa Ana, CA 92701.

27 3. On or about May 31, 2001, the Medical Board of California issued Physician's and  
28 Surgeon's Certificate No. A 74733 to Brendan Robert Mull, M.D. (Respondent). The physician's

1 and surgeon's certificate was in full force and effect at all times relevant to the charges brought in  
2 Accusation No. 04-2007-188190 and will expire on May 31, 2009, unless renewed.

3 JURISDICTION

4 4. Accusation No. 04-2007-188190 was filed before the Board, and is currently  
5 pending against Respondent. A true and correct copy of the Accusation and all other statutorily  
6 required documents were properly served on Respondent on June 12, 2008. Respondent timely  
7 filed his Notice of Defense contesting the Accusation. A true and correct copy of the Accusation  
8 is attached as Exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. 04-2007-188190. Respondent has also carefully read,  
12 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
13 Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
15 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
16 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
18 documents; the right to reconsideration and court review of an adverse decision; and all other  
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each  
21 and every right set forth above.

22 8. Respondent was not and is not an employee of the University of California,  
23 Irvine Medical Center. Paragraph #6 of the Accusation is, therefore, deemed amended to read as  
24 follows:

25 "6. The above-referenced court documents include a declaration of the UCI-MC  
26 employee, Dr. T.Y., who Dr. Mull assaulted on or about October 12, 2007. This  
27 psychiatrist was treating Dr. Mull at the time. An additional declaration in the  
28 court documents is that of Dr. S.B., who examined Mull in the emergency room  
of UCI-MC immediately after the assault on Dr. T.Y."

9. Paragraph 5 of the Accusation is clarified below and deemed amended to read as

1 follows:

2 "5. On or about November 2, 2007, after Mull responded and requested the Court  
3 to either deny or limit the scope of any court orders and after a hearing, the Orange  
4 County Superior found clear and convincing evidence to issue an injunction  
immediately, and did so."

5 CULPABILITY

6 10. Respondent admits the complete truth and accuracy of each charge and allegation  
7 in Accusation No. 04-2007-188090, as it is deemed amended by paragraphs 8 and 9 above.

8 11. Respondent agrees that his physician's and surgeon's certificate no. A 74733 is  
9 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth  
10 in the Disciplinary Order below.

11 CONTINGENCY

12 12. The parties understand and agree that facsimile copies of this Stipulated  
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
14 force and effect as the originals.

15 13. In consideration of the foregoing admissions and stipulations, the parties agree  
16 that the Board, without further notice or formal proceeding, issue and enter the following  
17 Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No.  
20 A 74733 issued to Respondent Brendan Robert Mull, M.D. is revoked. However, the revocation  
21 is stayed and Respondent is placed on probation for seven (7) years on the following terms and  
22 conditions.

23 1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE

24 Respondent shall abstain completely from the personal use of controlled substances as  
25 defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by  
26 Business and Professions Codes section 4022, and any drugs requiring a prescription. This  
27 prohibition does not apply to medications lawfully prescribed to respondent by another  
28 practitioner for a bona fide illness or condition.

1           2.     ALCOHOL - ABSTAIN FROM USE

2           Respondent shall abstain completely from the use of products or beverages containing  
3 alcohol.

4           3.     BIOLOGICAL FLUID TESTING

5           Respondent shall immediately submit to biological fluid testing, at respondent's expense,  
6 upon request of the Board or its designee. Prior to practicing medicine, respondent shall, at  
7 respondent's expense, contract with a laboratory or service - approved in advance by the Board  
8 or its designee - that will conduct random, unannounced, observed, urine testing a minimum of  
9 four times each month. The contract shall require results of the urine tests to be transmitted by  
10 the laboratory or service directly to Board or its designee within four hours of the results  
11 becoming available. If biological fluid testing is currently being conducted by Respondent's  
12 employer, Kaiser Hospital, that monitoring shall be eligible for approval by the Board or its  
13 designee as the laboratory or service useable by Respondent. If Kaiser testing is approved by the  
14 Board or its designee and Respondent terminates employment or Kaiser terminates its biological  
15 fluid testing, Respondent shall immediately notify his probation monitor and submit for approval  
16 a new contract with a laboratory or service that complies with this probationary condition.  
17 Failure to maintain a laboratory or service during the period of probation is a violation of  
18 probation. A certified copy of any laboratory test result may be received in evidence in any  
19 proceedings between the Board and respondent. Failure to submit to or comply with the time  
20 frame for submitting to, or failure to complete the required biological fluid testing, is a violation  
21 of probation.

22           4.     PSYCHOTHERAPY Within 60 calendar days of the effective date of this

23 Decision, respondent shall submit to the Board or its designee for prior approval the name and  
24 qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral  
25 degree in psychology and at least five years of postgraduate experience in the diagnosis and  
26 treatment of emotional and mental disorders. Upon approval, respondent shall undergo and  
27 continue treatment, including any modifications to the frequency of psychotherapy, until the  
28 Board or its designee deems that no further psychotherapy is necessary.

1 If Respondent is currently treating with a psychiatrist or psychologist who meets the  
2 above qualifications, who is in good standing with the Board him or herself, and who has no  
3 Board disciplinary history, Respondent may fulfil this probationary condition with his current  
4 treater, provided all terms of this condition are met and there is an express understanding  
5 between Respondent, his treater, and the Board that Respondent completely waives his  
6 patient/psychotherapist confidentiality with this treater, retroactive to the commencement of his  
7 treatment with this mental health professional.

8 The psychotherapist shall consider any information provided by the Board or its designee  
9 and any other information the psychotherapist deems relevant and shall furnish a written  
10 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
11 psychotherapist any information and documents that the psychotherapist may deem pertinent.  
12 Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or  
13 its designee. The Board or its designee may require respondent to undergo psychiatric  
14 evaluations by a Board-appointed board certified psychiatrist.

15 If, prior to the completion of probation, respondent is found to be mentally unfit to  
16 resume the practice of medicine without restrictions, the Board shall retain continuing  
17 jurisdiction over respondent's license, and the period of probation shall be extended until the  
18 Board determines that respondent is mentally fit to resume the practice of medicine without  
19 restrictions. Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

20 Failure to undergo and continue psychotherapy treatment, or comply with any required  
21 modification in the frequency of psychotherapy, is a violation of probation.

22 5. MEDICAL EVALUATION AND TREATMENT Within 30 calendar days of the  
23 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board  
24 or its designee, respondent shall undergo a medical evaluation by a Board-appointed physician  
25 who shall consider any information provided by the Board or designee, and any other information  
26 the evaluating physician deems relevant, and shall furnish a medical report to the Board or its  
27 designee.

28 Following the evaluation, respondent shall comply with all restrictions or conditions

1 recommended by the evaluating physician within 15 calendar days after being notified by the  
2 Board or its designee.

3 If respondent is required by the Board or its designee to undergo medical treatment,  
4 respondent shall, within 30 calendar days of the requirement notice, submit to the Board or its  
5 designee for prior approval the name and qualifications of a treating physician of respondent's  
6 choice. Upon approval of the treating physician, respondent shall within 15 calendar days  
7 undertake medical treatment and shall continue such treatment until further notice from the  
8 Board or its designee.

9 The treating physician shall consider any information provided by the Board or its  
10 designee or any other information the treating physician may deem pertinent prior to  
11 commencement of treatment. Respondent shall have the treating physician submit quarterly  
12 reports to the Board or its designee indicating whether or not the respondent is capable of  
13 practicing medicine safely. Respondent shall provide the Board or its designee with any and all  
14 medical records pertaining to treatment that the Board or its designee deems necessary.

15 If, prior to the completion of probation, respondent is found to be physically incapable of  
16 resuming the practice of medicine without restrictions, the Board shall retain continuing  
17 jurisdiction over respondent's license, and the period of probation shall be extended until the  
18 Board determines that respondent is physically capable of resuming the practice of medicine  
19 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

20 Failure to undergo and continue medical treatment or comply with the required additional  
21 conditions or restrictions is a violation of probation.

22 Respondent shall not engage in the practice of medicine until notified in writing by the  
23 Board or its designee of its determination that respondent is medically fit to practice safely.

#### 24 6. PRACTICE MONITORING

25 Within 30 calendar days of the effective date of this Decision, respondent shall submit to  
26 the Board or its designee for prior approval as a practice monitor, the name and qualifications of  
27 one or more licensed physicians and surgeons whose licenses are valid and in good standing, and  
28 who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall

1 have no prior or current business or personal relationship with respondent, or other relationship  
2 that could reasonably be expected to compromise the ability of the monitor to render fair and  
3 unbiased report to the Board, including but not limited to any form of bartering, shall be in the  
4 respondent's field of practice, and must agree to serve as respondent's monitor. Respondent  
5 shall may all monitoring costs.

6 The Board or its designee shall provide the approved monitor with copies of the Decision  
7 and Accusation and a proposed monitoring plan. Within 15 calendar days of receipt of the  
8 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement  
9 that the monitor has read the Decision, Accusation, fully understands the role of a monitor, and  
10 agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the  
11 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed  
12 statement.

13 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
14 probation, respondent's practice shall be monitored by the approved monitor. Respondent shall  
15 make all records available for immediate inspection and copying on the premises by the monitor  
16 at all times during business hours and shall retain the records for the entire term of probation.

17 The monitor shall submit a quarterly written report to the Board or its designee which  
18 includes an evaluation of respondent's performance, indicating whether respondent's practices  
19 are within the standards of practice of medicine and whether respondent is practicing medicine  
20 safely.

21 It shall be the sole responsibility of respondent to ensure that the monitor submits the  
22 quarterly written reports to the Board or its designee within 10 calendar days after the end of the  
23 preceding quarter.

24 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days  
25 of such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
26 name and qualifications of a replacement monitor who will be assuming that responsibility  
27 within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within  
28 60 days of the resignation or unavailability of the monitor, respondent shall be suspended from



1 the practice of medicine until a replacement monitor is approved and prepared to assume  
2 immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3  
3 calendar days after being so notified by the Board or its designee.

4 In lieu of a monitor, respondent may participate in a professional enhancement program  
5 equivalent to the one offered by the Physician Assessment and Clinical Education program at the  
6 University of California, San Diego School of Medicine that includes, at minimum, quarterly  
7 chart review, semi-annual practice assessment, and semi-annual review of professional growth  
8 and education. Respondent shall participate in the professional enhancement program at  
9 respondent's expense during the term of probation.

10 Failure to maintain all records, or to make all appropriate records available for immediate  
11 inspection and copying on the premises, or to comply with this condition as outlined above is a  
12 violation of probation.

13 7. SOLO PRACTICE

14 Respondent is prohibited from engaging in the solo practice of medicine.

15 8. NOTIFICATION Prior to engaging in the practice of medicine, the respondent  
16 shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief  
17 Executive Officer at every hospital where privileges or membership are extended to respondent,  
18 at any other facility where respondent engages in the practice of medicine, including all physician  
19 and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every  
20 insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall  
21 submit proof of compliance to the Board or its designee within 15 calendar days.

22 This condition shall apply to any change(s) in hospitals, other facilities or insurance  
23 carrier.

24 9. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, respondent  
25 is prohibited from supervising physician assistants.

26 10. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all  
27 rules governing the practice of medicine in California, and remain in full compliance with any  
28 court ordered criminal probation, payments and other orders.

1           11.    QUARTERLY DECLARATIONS   Respondent shall submit quarterly  
2 declarations under penalty of perjury on forms provided by the Board, stating whether there has  
3 been compliance with all the conditions of probation. Respondent shall submit quarterly  
4 declarations not later than 10 calendar days after the end of the preceding quarter.

5           12.    PROBATION UNIT COMPLIANCE   Respondent shall comply with the Board's  
6 probation unit. Respondent shall, at all times, keep the Board informed of respondent's business  
7 and residence addresses. Changes of such addresses shall be immediately communicated in  
8 writing to the Board or its designee. Under no circumstances shall a post office box serve as an  
9 address of record, except as allowed by Business and Professions Code section 2021(b).

10           Respondent shall not engage in the practice of medicine in respondent's place of  
11 residence. Respondent shall maintain a current and renewed California physician's and  
12 surgeon's license.

13           Respondent shall immediately inform the Board, or its designee, in writing, of travel to  
14 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than  
15 30 calendar days.

16           13.    INTERVIEW WITH THE BOARD OR ITS DESIGNEE   Respondent shall be  
17 available in person for interviews either at respondent's place of business or at the probation unit  
18 office, with the Board or its designee, upon request at various intervals, and either with or  
19 without prior notice throughout the term of probation.

20           14.    RESIDING OR PRACTICING OUT-OF-STATE   In the event respondent should  
21 leave the State of California to reside or to practice, respondent shall notify the Board or its  
22 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is  
23 defined as any period of time exceeding 30 calendar days in which respondent is not engaging in  
24 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

25           All time spent in an intensive training program outside the State of California which has  
26 been approved by the Board or its designee shall be considered as time spent in the practice of  
27 medicine within the State. A Board-ordered suspension of practice shall not be considered as a  
28 period of non-practice. Periods of temporary or permanent residence or practice outside

1 California will not apply to the reduction of the probationary term. Periods of temporary or  
2 permanent residence or practice outside California will relieve respondent of the responsibility to  
3 comply with the probationary terms and conditions with the exception of this condition and the  
4 following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

5 Respondent's license shall be automatically canceled if respondent's periods of temporary  
6 or permanent residence or practice outside California total two years. However, respondent's  
7 license shall not be canceled as long as respondent is residing and practicing medicine in another  
8 state of the United States and is on active probation with the medical licensing authority of that  
9 state, in which case the two year period shall begin on the date probation is completed or  
10 terminated in that state.

11 15. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

12 In the event respondent resides in the State of California and for any reason respondent  
13 stops practicing medicine in California, respondent shall notify the Board or its designee in  
14 writing within 30 calendar days prior to the dates of non-practice and return to practice. Any  
15 period of non-practice within California, as defined in this condition, will not apply to the  
16 reduction of the probationary term and does not relieve respondent of the responsibility to  
17 comply with the terms and conditions of probation. Non-practice is defined as any period of time  
18 exceeding 30 calendar days in which respondent is not engaging in any activities defined in  
19 sections 2051 and 2052 of the Business and Professions Code.

20 All time spent in an intensive training program which has been approved by the Board or  
21 its designee shall be considered time spent in the practice of medicine. For purposes of this  
22 condition, non-practice due to a Board-ordered suspension or in compliance with any other  
23 condition of probation, shall not be considered a period of non-practice.

24 Respondent's license shall be automatically canceled if respondent resides in California  
25 and for a total of two years, fails to engage in California in any of the activities described in  
26 Business and Professions Code sections 2051 and 2052.

27 16. COMPLETION OF PROBATION Respondent shall comply with all financial  
28 obligations (e.g., probation monitoring costs) not later than 120 calendar days prior to the

1 completion of probation. Upon successful completion of probation, respondent's certificate shall  
2 be fully restored.

3 17. VIOLATION OF PROBATION Failure to fully comply with any term or  
4 condition of probation is a violation of probation. If respondent violates probation in any respect,  
5 the Board, after giving respondent notice and the opportunity to be heard, may revoke probation  
6 and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke  
7 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board  
8 shall have continuing jurisdiction until such matter is final, and the period of probation shall be  
9 extended until the matter is final.

10 18. LICENSE SURRENDER Following the effective date of this Decision, if  
11 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
12 the terms and conditions of probation, respondent may request the voluntary surrender of  
13 respondent's license. The Board reserves the right to evaluate respondent's request and to  
14 exercise its discretion whether or not to grant the request, or to take any other action deemed  
15 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
16 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the  
17 Board or its designee and respondent shall no longer practice medicine. Respondent will no  
18 longer be subject to the terms and conditions of probation and the surrender of respondent's  
19 license shall be deemed disciplinary action. If respondent re-applies for a medical license, the  
20 application shall be treated as a petition for reinstatement of a revoked certificate.

21 19. PROBATION MONITORING COSTS Respondent shall pay the costs  
22 associated with probation monitoring each and every year of probation, as designated by the  
23 Board, but may be adjusted on an annual basis. Such costs shall be payable to the Medical Board  
24 of California and delivered to the Board or its designee no later than January 31 of each  
25 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of  
26 probation.

27 ///

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Laura Stephan, Esq. I understand the stipulation and the effect it will have on my physician's and surgeon's certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 7/21/08

Brendan Mull, M.D.  
BRENDAN ROBERT MULL, M.D.  
Respondent

I have read and fully discussed with Respondent Brendan Mull, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/21/08

BEAM, BROBECK, WEST, BORGES & ROSA, LLP

By: [Signature]  
LAURA STEPHAN, ESQ.  
Attorney for Respondent

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ENDORSEMENT

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
3 submitted for consideration by the Medical Board of California of the Department of Consumer  
4 Affairs.

5 DATED: July 22, 2008  
6

7 EDMUND G. BROWN JR., Attorney General  
8 of the State of California

9 STEVEN V. ADLER  
10 Supervising Deputy Attorney General

11 Susan Fitzgerald  
12 SUSAN FITZGERALD  
13 Deputy Attorney General

14 Attorneys for Complainant

15 DOJ Matter ID: SD2008801263  
16 80261397.wpd  
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**Exhibit A**

**Accusation No. 04-2007-188190**

EDMUND G. BROWN JR., Attorney General  
of the State of California  
STEVEN V. ADLER  
Supervising Deputy Attorney General  
SUSAN L. FITZGERALD, State Bar No. 112278  
Deputy Attorney General  
110 West "A" Street, Suite 1100  
San Diego, CA 92101

P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2066  
Facsimile: (619) 645-2061

Attorneys for Complainant

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 04-2007-188190

BRENDAN ROBERT MULL, M.D.  
P.O. Box 17037  
Anaheim Hills, CA 92817-7037

ACCUSATION

Physician's and Surgeon's Certificate No.  
A74733

Respondent.

Complainant alleges:

PARTIES

1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.<sup>1</sup>

1. California Business & Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act ( Cal. Bus. & Prof. Code §§2000 et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.



2. On or about May 31, 2001, the Medical Board of California issued Physician and Surgeon Certificate Number A74733 to Brendan Mull, M.D. (Respondent or Dr. Mull). This certificate is currently in good standing and will expire on May 31, 2009 unless renewed.

## JURISDICTION

3. This Accusation is brought before the Medical Board of California, Department of Consumer Affairs (Board), under the authority of the following sections of the California Business & Professions Code:

A. Section 822 states as follows:

“If a licensing agency determines that its licentiate’s ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspending certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

B. Section 2227 provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for not more than one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

C. Section 2234 provides that the Board may take action against any licensee who is charged with unprofessional conduct. General unprofessional conduct includes, among other

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///

1 things and pursuant to *Shea v. Board of Medical Examiners*,<sup>2</sup> behavior demonstrating unfitness  
2 to practice, or which breaches the rules or ethical code of the profession, or conduct which is  
3 unbecoming a member in good standing of the profession.

4 CHARGES AND ALLEGATIONS

5 4. In or about late October 2007, the University of California Irvine Medical Center  
6 (UCI-MC) filed a petition in Orange County Superior Court, Case No. 078CL07588, against Dr.  
7 Mull. The petition was an employer petition for an injunction prohibiting violence or threats of  
8 violence against an employee and for a temporary restraining order.

9 5. On or about November 2, 2007, after opposition from Mull and a hearing, the  
10 Orange County Superior Court found clear and convincing evidence to issue the injunction  
11 immediately, and did so.

12 6. The above-referenced court documents include a declaration of the UCI-MC  
13 employee, Dr. T.Y., who Dr. Mull assaulted on or about October 12, 2007. This doctor was both  
14 Mull's colleague, since Mull was at the time a doctor employed at UCI-MC and, a psychiatrist  
15 treating Dr. Mull. An additional declaration in the court documents is that of Dr. S.B., who  
16 examined Mull in the emergency room of UCI-MC immediately after the assault on Dr. T.Y.

17 7. The evidence in the court documents shows the following regarding Dr. Mull's  
18 assault on Dr. T.Y.:

19 A. Dr. Mull's wife contacted Dr. T.Y. asking for an emergency evaluation of Dr.  
20 Mull due to the wife's concern that he was suicidal. Dr. Mull had previously been treated by Dr.  
21 T.Y. During the evaluation, in which Dr. Mull's family participated in part, Dr. T.Y. encouraged  
22 him "to be evaluated medically and consider hospitalization." Dr. Mull threatened to become  
23 violent if hospitalized. Dr. Mull first became verbally abusive to Dr. T.Y. in the evaluation room  
24 and then ran out of the room and down the hall. Dr. T.Y.'s declaration states what happened  
25 next:

26  
27  
28 

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2. 81 Cal.App.3d 564, 578.

1 "I ran down the hall yelling repeatedly for help and to call police because I feared  
2 what he might do when he left the building. When Dr. Mull got to the building  
3 exit, paramedics held the door closed from the outside. He bounced off the door  
4 and spun around. By this time, there were others in the hall and I was within  
5 several feet of him. He lunged at me, grabbed me by the neck with both of his  
6 hands and pushed me against the wall yelling 'Why are you doing this to me?'  
7 and 'Why are you trying to ruin my life?' I felt his fingers squeezing my neck  
8 harder over my carotid arteries and I started to feel dizzy."

9 B. Another colleague pulled Dr. Mull off of Dr. T.Y. and in doing so, Dr. T.Y. was  
10 thrown down the hall and landed on her side on the floor. While Dr. T.Y. tried to get up, Dr.  
11 Mull again advanced on her, swinging and punching his arms violently. Dr. Mull was tackled to  
12 the ground and subdued before he could inflict more harm on Dr. T.Y.

13 C. Dr. S.B. examined Dr. Mull following the assault. Per Dr. S.B.'s declaration, Dr.  
14 Mull was very hostile and fixated on Dr. T.Y. for ruining his life and he used very threatening  
15 language toward Dr. T.Y. Dr. S.B. reported, "He exhibited no remorse and stated he would have  
16 hurt her 'much more' if he had the chance. . .[h]e also said 'wait 'till I get out' and 'I will fight  
17 back.'"

18 8. As a result of the above incident, Dr. Mull was hospitalized at UCI Medical  
19 Center pursuant to Welfare and Institutions Code section 5150. Thereafter, he spent several  
20 more days at UCI Medical Center and subsequently underwent some in-patient treatment at  
21 Aurora Las Encinas Hospital.

22 9. Dr. Mull's medical specialty is pediatric neurology.

23 10. At the request of the Board, Respondent voluntarily underwent both physical and  
24 mental examinations in March 2008 and reports were made to him and the Board.

25 A. The psychiatrist who examined Dr. Mull concluded his report as follows:

26 Again, Dr. Mull has especially chronic and severe mental disorders (i.e., a "dual  
27 diagnosis" of Mood Disorder and Polysubstance/Alcohol Abuse). Given such, as  
28 well as the history of poor compliance with treatment, withholding pertinent infor-  
29 mation from treating physicians, and self-administering of prescription drugs, the  
30 prognosis (e.g., for sobriety) is guarded. Therefore, should he be allowed to practice  
31 medicine (i.e., where sobriety is a precondition), he will need chronic and regular  
32 (i.e., for at least five-ten years), psychiatric treatment/observation, drug/alcohol  
33 rehabilitation, and random drug/alcohol testing.

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1 B. The conclusions of the doctor providing the physical examination of Respondent  
2 include that Dr. Mull suffers from chemical dependency; has a long history of depression; and  
3 carries a current diagnosis of bipolar disorder. While concluding that Dr. Mull was neither a  
4 danger to himself or others because of treatment received since the assault incident, the examiner  
5 recommended that Dr. Mull submit to random drug testing and be under the continuous care of a  
6 qualified physician. The examiner also suggested that the Medical Board institute another  
7 evaluation via a follow-up examination in 6 months time.

8 CAUSE FOR BOARD ACTION

9 (Impairment to Practice Medicine Safely)

10 11. Respondent is subject to action by the Board under section 822 because he is  
11 impaired to practice medicine safely, either due to mental illness or physical illness affecting  
12 competency related to the mental illness, as more particularly alleged above and incorporated  
13 herein by reference. As a result of his impairment, Respondent is not safe to practice medicine  
14 or, alternatively, not safe to practice without very significant and long term restrictions on his  
15 license.

16 FIRST CAUSE FOR DISCIPLINE

17 12. Respondent is subject to disciplinary action under sections 2227 and 2234 for  
18 general unprofessional conduct because of his assault on his colleague/treating physician, as  
19 more particularly alleged above and incorporated herein by reference.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Medical Board of California issue a decision:


4 1. Revoking or suspending Physician and Surgeon Certificate Number A74733,  
5 issued to Brendan Mull, M.D.;

6 2. Revoking, suspending or denying approval of Brendan Mull, M.D.'s authority to  
7 supervise physician's assistants, pursuant to Code section 3527;

8 3. Ordering Brendan Mull, M.D. to pay the Medical Board of California, if placed on  
9 probation, the costs of probation monitoring; and

10 4 Taking such other and further action as deemed necessary and proper.

11 DATED: June 12, 2008

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14 BARBARA JOHNSTON  
15 Executive Director  
16 Medical Board of California  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
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